

CEQA Improvement Regional Dialogue – Bay Area

April 6, 2005--Digest Notes

Introductory Comments

- The state is undertaking the first comprehensive review of CEQA since 1970. The context for planning and growth has dramatically changed in the past 35 years.
- The California Resources Agency assembled a state level Advisory Group to examine CEQA and the potential to improve the statute. The Advisory Group is not a commission, but a group that was put together to provide their best thinking to the Resources Agency and to bring ideas forward for the 2006 legislative cycle. The Advisory Group is moving along a long term and short term track.
- A subset of the Advisory Group, the Infill/Outcomes Working Group, will focus on housing development in locations that conserve open space and support urban revitalization advancing gentrification.
- In addition, the Resources Agency is working in partnership with the California Center for Regional Leadership to conduct a series of Regional Dialogues statewide. The Bay Area session is the first session.
- The purpose of the state level Advisory Group and these Regional Dialogues is to learn more about how to improve CEQA. At this point, there has been some convergence about the need to identify some outcome principles and whether there is a planning component to CEQA that could encourage the type of development that will foster communities we want more of. The opportunity to streamline CEQA may be possible in the locations where long term planning has already taken place. These advisory meetings have been an extremely educational in learning about good approaches to CEQA Improvement, especially with a planning component. Some of the ideas that are under development with the Advisory Group include:
 - CEQA Improvements for Housing- This idea aims to minimize sprawl by streamlining CEQA for infill projects.
 - Infill exemptions for projects that plan for and consider infrastructure requirements and public health impacts.
 - Exemptions for frontloading the CEQA process.
 - Administrative Law Judges is a concept that was initially raised, but was taken off of the table following Advisory Group feedback.

Public Policy Institute of California (PPIC) Presentation

- The PPIC paper on *CEQA Reform: Issues and Options* is posted on PPIC's website at: http://www.ppic.org/content/pubs/OP_405EBOP.pdf.

Questions and Answers Pertaining to the PPIC Presentation

Q: What were the sources of data for the presentation and research conducted?

A: A comprehensive study of CEQA has not been performed in a very long time. The data sources for our presentation came from a variety of sources which are all available in the public record. This was mainly a literature review since one month time is too short a time frame for an empirical study.

Q: Have you looked into form based codes as a method for achieving better planning outcomes while maintaining a high level of public input?

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A: No. We have not had the time or resources to analyze form based codes, although we would like to do so.

Public Comments

- The problem facing local government is funding for housing not CEQA. Cities and local government currently receive 16% - 17% of property tax revenues. If localities were receiving a higher percentage of property tax then locals might produce more housing.
- General Plans produced by LAFCOs are a potential vehicle for promoting better long range planning. Rohnert Park's general plan process was slowed-down by the general plan production and not the production of EIRs. In Rohnert Park, the bottlenecks were:
 - Developing the public financing for projects
 - Water assessment
 - Congestion management plan
- Representation is another key issue. Moving planning away from the people [comprehensive regional planning] who live in a given locality is a risky prospect because people care about their communities. We cannot limit the tools that give the public access to the planning process.
- The funding of infrastructure is being cut from the state and federal level. How can long term vision for localities be taken-on if there is a lack of funding for immediate needs? For example, transportation funding is being cut back and transit services are on the decrease not on the increase.
- CEQA is a good law. It involves people in how to plan for their future. It provides the framework for robust public participation. And, it brings to light the environmental impacts of prospective projects. Evaluating projects at the general plan level can currently be done through a variety of methods (i.e., specific plan or community plan level). We do not want to remove the review to a higher place. However, the housing crisis and the affordable housing crisis are very real. The CEQA Improvement Advisory Group should focus on several elements of housing:
 - Focus resources from the state on local planning for specific plans
 - State to put more money toward affordable housing
 - Tie state money to good regional infrastructure planning.
- CEQA protects people from heavy development and insider politics. A less risky approach to the people of California could take the form of community planning. For example, the Transbay terminal in San Francisco was built after a series of public meetings. The process introduced a range of plans that included higher density development, stores, parks, and alternative parking arrangements. Many good ideas were brought into the plan because the people know the area better. Protections are still needed to reduce gentrification, support rent control, and allocate money for the planning process. But, it is imperative to strengthen these types of programs from the state and not reduce barriers.
- A core tenet of environmental justice is having communities speak for themselves. The General Planning process is typically not an area where low income communities and communities of color participate. An increase in housing does not equate to increased access to affordable housing.

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- The focus of CEQA Improvement for increased housing production should be on the idea of a statewide inclusionary zoning requirement to ensure housing affordability at all levels.
- CEQA in some cases has been a barrier to development in the region and delays and uncertainties have contributed to the high cost of housing. The types of things that should take place in the CEQA Improvement effort include: a clarification of the cumulative impact standards, the enforcement of alternative plans when housing options are offered, and more detail on growth inducing elements. Environmental impacts take place at the regional scale and not at the project scale, but CEQA does not account for this disparity. Improvement should go forward addressing this problem. Also, the efficiency of the law should be improved to deal with shortened time frames to support more consistent and timely review of projects.
- CEQA should be use to connect project plans to specific plans and to regional plans and all of these plans should be linked to overall regional development.
- Fish are coming back to streams in Marin because of local level action that was raised through CEQA. CEQA is not the problem, but mechanisms at the state level to help communities take charge of their own future are the problem. How do communities raise the funds for public transit and bike lanes, etc.?
- Rather than alter CEQA, enforce better coordination between and among state agencies to align agency values so that all agencies are on the same page at the same time and project sponsors and local government are not responsible for fulfilling environmental requirements at multiple levels.
- Projects tend not to get worse after EIRs, but are improved through EIRs and as such, CEQA is not the problem.
- Look into creating a common pot of funds for inter-regional planning. Include a socio-economic process in looking into EIRs. Gentrification is an environmental issue that needs further exploration.
- There is a flaw in the premise that reforming CEQA will create housing. Tying these reforms to housing production is misguided. This is symptomatic of the larger problem: funding for local government. General plans are very expensive. There is a shelf life for the creation of specific plans that would be a more efficient way to address the housing crisis. The level of detail analysis is beyond the reach of any jurisdiction.
- Possible changes to CEQA include the establishment of a fair argument standard that is not a low standard, but a higher standard. The mitigated negative declaration standard is too low and requires EIRs for too many projects.
- Also, the sequencing of the environmental review allows Caltrans and others to introduce new EIRs in the middle of a project. Need state agency coordination.
- Economic and social impact of new development (Community Impact Reports) address the social and economic impacts of projects and should be examined in more detail by the CEQA Improvement Advisory Group.
- Impacts about income levels, pay for jobs generated, and other social indicators would be helpful for providing decision makers and community members with better and more thorough information. These elements should be added to the CEQA Improvement discussion.

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- Any attempt to reduce the people phase of CEQA is not helpful. Public outreach and increasing public input merit expanded provisions.
- Community benefit plans and the preservation of public participation are key issues that relate directly to CEQA. The fiscalization of land use and funding for housing are the real problems. The current proposals do not address affordable housing or the fiscalization of land use. Also, the law does not address mixed use development and whether the commercial portion of projects is subject to public review.
- Not all projects end up in litigation. In fact, very few project end in litigation. EIRs produce valuable information to create better projects. The problem with housing in CA is not CEQA. The fact that there is not a good planning tool for local government is a problem. Local communities are not well versed in CEQA and the technicalities are a barrier that keeps the people of California “in the dark” about their rights under CEQA. More information about CEQA and how local communities can use and apply the law would be a constructive improvement to the law.
- Encourage public participation earlier in the planning process. Amending CEQA alone will not result in more housing. Wealthy communities find it difficult to certify housing elements years after deadline is indicative of the problems facing us in our communities. Even a simple step in adopting a housing element would make a difference.
- The CEQA guidelines are not updated on a regular basis. In addition, final EIRs are not given much guidance. Additional comment letters and response comments keep EIRs “open” and serve to delay the process of preparing and completing final EIRs.
- Specific plans may be less expensive than General Plans. The level of detail cannot be achieved at the General Plan that will satisfy communities.
- Affordable housing developers are often caught in the middle in CEQA debates. CEQA exemptions do not typically “work.” Very few developers are using the affordable housing exemptions because local governments are reluctant to use the exemptions.
- The community does not benefit from changes to CEQA. Even if housing were produced it would not produce affordable housing (10% or 20% is not a high enough level for affordable housing requirements).
- One of the weaknesses of using the General Plan as the only source of community input is that you get the “usual suspects” to participate and often does not reach out to low income people and other citizens. CEQA gives an individual standing to participate and challenge projects.
- It is very difficult to get people to talk about long range vision for their city. Awareness is at the local and neighborhood level and the playing field is not always level. The feeling of powerlessness is pervasive in legal standing and statewide.
- Statements of “overriding consideration” required for local government takes an excessive amount of time and money and is an interesting part of CEQA. Perhaps we should examine this concern: standards and criteria are far ranging and often there are no standards for these issues.
- The connection between the public to regional planning is a challenge. The public cares first about what affects it immediately.

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- CEQA is an asset not a problem. Neighborhood and community planning is an appropriate level to undertake dialogue. CEQA facilitates this level of dialogue and the dollars are what is missing. Using these provisions effectively at the neighborhood plan level does not require a change to the law.
- There is an absence of permanent funding for affordable housing. Cities need to identify and secure funding for affordable housing. We need to focus on the planning process.